



Governor
Janice K. Brewer

**ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

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Board Members

Scott Steingard, D.O., Pres
Douglas Cunningham, D.O., V.P.
Jon B. Fiegen, J.D.
Jerry G. Landau, J.D.
Martin Reiss, D.O.
Vas Sabeeh, D.O.
Michael P. Ward, D.O.

Executive Director

Jenna Jones

**MINUTES OF THE PUBLIC BOARD MEETING OF
THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

Saturday, March 29, 2014

BOARD MEMBERS PRESENT:

Douglas Cunningham, D.O., Vice-President
Jon B. Fiegen, J.D.
Jerry G. Landau, J.D.
Martin Reiss, D.O.
Vas Sabeeh, D.O.
Michael Ward, D.O.
Scott Steingard, D.O. President (arrived at 3:51 p.m.)

STAFF / OTHERS PRESENT:

Jenna Jones, Executive Director
Barbara Meyers, Deputy Director
Barbara Prah, D.O., Medical Consultant
John O'Hair-Schattenberg, Investigator
Therese Hall, Business Manager
Kathy Fowkes, Admin. Asst. II, Licensing Division
Jeanne Galvin, Assistant Attorney General
Robin Jasper, RPR, Ottmar & Associates

1. CALL TO ORDER

Board Vice-President Dr. Douglas Cunningham called the meeting to order at 8:02 a.m.

2. ROLL CALL AND REVIEW OF AGENDA

The Executive Director took the roll. Six board members were present, establishing quorum for the meeting.

3. CALL TO THE PUBLIC

- A. Dr. Cunningham welcomed the Medical Students from Arizona College of Osteopathic Medicine at Midwestern University. Students from the other schools were not present.
- B. The Board's custom is to ask members of the public to speak when the agenda item of interest to the person is called. Members of the public who wanted to address the Board on an issue not on the agenda were invited to speak prior to the adjournment.

4. REVIEW, CONSIDERATION AND APPROVAL OF MINUTES

February 22, 2014 Open Session

MOTION: Mr. Fiegen moved to approve the minutes. Mr. Landau seconded.

VOICE VOTE: The motion carried 6-0.

February 22, 2014 Executive Session

MOTION: Mr. Landau moved to approve the minutes. Mr. Fiegen seconded.

VOICE VOTE: The motion carried 6-0.

5. REVIEW, DISCUSSION, AND ACTION ON CASE REVIEWS OF ALLEGATIONS OF UNPROFESSIONAL CONDUCT A.R.S. § 32-1855 (C through F).

Case Reviews

A. Donovan Schmidt, DO Case No. DO-12-0190A License No. 2768

Dr. Schmidt was not present. The Investigator reviewed the case. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Ward moved for **Dismissal**. Mr. Landau seconded.

VOICE VOTE: The motion carried unanimously.

B. Pranav Patel, DO Case No. DO-12-0188A License No. 4603

Dr. Patel was not present. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Ward seconded.

VOICE VOTE: The motion carried unanimously.

C. Darrell Bunch, DO Case No. DO-11-0074A License No. 1330

Dr. Bunch was not present. The Investigator reviewed the case. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Ward moved for **Dismissal**. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

Reviews of Executive Director Dismissals:

No cases were reviewed.

6. REVIEW, DISCUSSION AND ACTION ON INVESTIGATIVE HEARINGS PURSUANT TO A.R.S. § 32-1855 (E) ONLY.

A. Douglas Bobb, DO Case No. DO-12-0063A License No. 1990

Dr. Bobb was present with attorney Stephen Myers and was sworn in by the court reporter. The Investigator reviewed the case. Dr. Bobb gave a prepared statement and answered the Board's questions. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Ward seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

B. Arash Araghi, DO

Case No. DO-12-0204A

License No. 3888

Dr. Araghi was present with attorney Stephen Myers and was sworn in by the court reporter. The Executive Director reviewed the case.

Dr. Reiss moved to enter Executive Session to obtain legal advice. Dr. Sabeeh seconded. The Board entered Executive Session at 8:34 a.m. and returned to Open Session at 8:40 a.m.

Dr. Cunningham moved to enter Executive Session to review confidential records. Dr. Reiss seconded. The Board entered into Executive Session with Dr. Araghi and Mr. Myers at 8:40 a.m. and returned to Open Session at 9:01 a.m.

The Board deliberated the case. The Board expressed concern that Dr. Araghi denied having a problem, but was convicted twice of driving under the influence and this may reasonably be expected to endanger a patient's or the public's health. The Board acknowledged there is no evidence that Dr. Araghi has practiced medicine while impaired.

MOTION: Mr. Landau moved for a finding of **Unprofessional Conduct** in violating A.R.S. § 32-1854(38) by driving under the influence of intoxicating liquor and further, that this was the second time that Dr. Araghi was convicted of driving under the influence of intoxicating liquor. The act of driving a vehicle under the influence of intoxicating liquor especially when done for a second time may reasonably be expected to endanger a patient's or the public's health. Mr. Fiegen seconded.

ROLL CALL VOTE: The motion carried 5-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	5		X	X	X	X	X	
NO	1							X
ABSTAIN/RECUSE	0							
ABSENT	0	X						

Dr. Cunningham moved to enter Executive Session to obtain legal advice. Mr. Landau seconded. The Board entered Executive Session at 9:44 a.m. and returned to Open Session at 9:51 a.m.

MOTION: Dr. Sabeeh moved for a **Letter of Concern** and **20 hours of non-disciplinary Continuing Medical Education** in an area to be approved by the Executive Director along with an additional 20 hours of a voluntary self-awareness program approved in advance by the Executive Director and to be completed within the next six (6) months. Both requirements are in addition to statutory requirements for renewal and will be at physician's expense. Mr. Landau seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

- C. Brian Gallman, DO Case No. DO-12-0114A License No. 4061

Dr. Gallman was not present. The Board continued the case.

- D. Daniel Hunter, DO Case No. DO-13-0079A License No. 005903

Dr. Hunter was present and was sworn in by the court reporter. The Complainant was also present. The Medical Consultant reviewed the case. Dr. Hunter answered the Board's questions. The Complainant also addressed the Board.

MOTION: Dr. Ward moved for a finding of **Unprofessional Conduct** for violation of A.R.S. § 32-1854(6) and (38) for failing to meet the community standard in that he did not obtain a complete medical history, did not recognize an abnormal EKG and made an inappropriate disposition in a patient presenting to the emergency department for chest discomfort. The community standard in this case would be further observation and evaluation of the patient's chest discomfort in the hospital. Dr. Cunningham seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

MOTION: Dr. Ward moved for a **Letter of Concern** with **30 hours of non-disciplinary formal face-to-face Continuing Medical Education (CME)** in the area of the evaluation of patients presenting with acute chest pain, paid for by the physician, approved in advance by the Executive Director, and to be completed within twelve (12) months. This CME is in addition to the annual statutory requirement. Dr. Cunningham seconded.

ROLL CALL VOTE: The motion carried 5-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	5		X	X	X	X		X
NO	1						X	
ABSTAIN/RECUSE	0							
ABSENT	0	X						

E. Jaldeep Daulat, DO Case No. DO-12-0122A License No. 2315

Dr. Daulat was present and was sworn in by the court reporter. This case was reviewed by a board certified dermatologist. The Medical Consultant reviewed the dermatologist's report of this case. Dr. Daulat answered the Board's questions. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

F. Lawrence Ryan, DO (continued) Case No. DO-13-0060A License No. 2014

The Board recessed for lunch at 11:39 a.m. and returned to Open Session at 1 p.m.

Cases called after 1:00 p.m.

G. Edward Markman, DO Case No. DO-13-0200A License No. 005227

Dr. Markman was present with attorney John Drazkowski and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Markman gave a prepared statement and answered the Board's questions.

MOTION: Mr. Landau moved for a non-disciplinary **Letter of Concern** for prescribing medication to a person without creating and establishing adequate medical records. Dr. Ward seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

MOTION: Mr. Landau moved that Dr. Markman complete the PACE boundaries course regarding prescribing patterns and 20 hours of non-disciplinary **Continuing Medical Education (CME)** in the area of chronic pain management and record keeping, at the physician's expense, to be pre-approved by the Executive Director, and completed within the next twelve (12) months. This CME is in addition to the annual statutory requirement. Dr. Ward seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

H. James Baumann, DO

Case No. DO-13-0178A

License No. 1868

Dr. Baumann was present and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. Baumann answered the Board's questions.

Dr. Sabeeh moved to enter Executive Session to obtain legal advice. Mr. Landau seconded. The Board entered Executive Session at 2:00 p.m. and returned to Open Session at 2:07 p.m.

The Board expressed concern regarding Dr. Baumann's overall approach to patient management.

MOTION: Dr. Sabeeh moved for an **Interim Order** for a PACE 1 & 2 evaluation or equivalent at the physician's expense, to be pre-approved by the Executive Director and completed in the next 90 days. Dr. Reiss seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

- I. Suzanne Bentz, DO Case No. DO-12-0152A License No. 2866

Dr. Bentz was not present. The Complainant was present. This case was continued.

- J. John McCracken, DO Case No. DO-13-0136A License No. 0977

Dr. McCracken was present with attorney Lauren Weinzwieg and was sworn in by the court reporter. The Medical Consultant reviewed the case. Dr. McCracken gave a prepared statement and answered the Board's questions. After discussion and consideration, it was determined there was no statutory violation.

MOTION: Dr. Sabeeh moved for **Dismissal**. Dr. Ward seconded.

VOICE VOTE: The motion carried unanimously.

- K. Jeff Baird, DO Case No. DO-13-0041A License No. 2431

Dr. Baird was present and was sworn in by the court reporter. The Deputy Director reviewed the case. Dr. Baird answered the Board's questions.

Dr. Ward moved to enter Executive Session to obtain legal advice. Dr. Cunningham seconded. The Board entered Executive Session at 2:47 p.m. and returned to Open Session at 2:56 p.m.

Dr. Baird stated he has not been in clinical practice since January 2006 although he has prescribed medications and treated family members with osteopathic manipulation. He later amended his statement to say he was in clinical practice in 2009. He stated he did "a lot" of CME when he was teaching. The Board expressed concern that he has not practiced clinical medicine for the past five years.

Dr. Ward moved to enter Executive Session for legal advice. Dr. Reiss seconded. The Board entered Executive Session at 3:03 p.m. and returned to Open Session at 3:07 p.m.

Dr. Reiss moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Ward seconded. The Board entered Executive Session at 3:07 p.m. and returned to Open Session at 3:15 p.m.

MOTION: Dr. Ward moved for a finding of **Unprofessional Conduct** for violation of A.R.S. § 32-1854(6), (21), (23), (36), (37), and (38) in that Dr. Baird practiced medicine in a manner that harms or may harm a patient, failed to establish and maintain adequate patient records, prescribed controlled substances to members of his immediate family, dispensed controlled substances without establishing and maintaining adequate medical records, dispensed drugs contrary to A.R.S. Title 32, Chapter 17, Article 4, and practiced in a manner

that endangers a patient's health or may reasonably be expected to do so. The community standard for the practice of medicine is to follow enacted Statutes and Rules regarding said practice, and Dr. Baird, knowing those Statutes and Rules, failed to do so. Mr. Landau seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

MOTION: Dr. Ward moved for an **Interim Order for Suspension** of license to practice osteopathic medicine for up to 364 days pending the following evaluations:

1. Neuropsychiatric evaluation
2. Psychiatric evaluation
3. Medical examination
4. Clinical practice assessment (PACE 1 & 2 or equivalent)
5. CME Audit of the last renewal cycle

These evaluations shall be done at the expense of the physician, with prior approval of the Executive Director, to be scheduled within 90 days and completed prior to the expiration of the period of suspension. Mr. Landau seconded.

ROLL CALL VOTE: The motion carried 6-0.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6		X	X	X	X	X	X
NO	0							
ABSTAIN/RECUSE	0							
ABSENT	0	X						

7. CONSIDERATION AND ACTION ON COMPLIANCE WITH TERMS OF BOARD ORDERS AND REQUESTS TO MODIFY OR TERMINATE ORDERS, PURSUANT TO A.R.S. §32-1855 (E) AND (I).

A. Guy Merz, DO

Case No. DO-13-0139A

License No. 2710

Dr. Merz was present. The Deputy Director reported Dr. Merz was in compliance with the Consent Agreement currently in place. She reviewed his request for an amendment to increase his work hours to 40 per week. Dr. Merz answered the Board's questions.

MOTION: Mr. Landau moved to amend the Consent Agreement to increase Dr. Merz' hours of practice to no more than 40 per week. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

Dr. Steingard arrived and began participating in the meeting at 3:51 p.m.

B. Ramon Morales, DO Case No. DO-11-0038A and License No. 4391
DO-11-0074A

Dr. Morales was present and answered the Board's questions. The Board reviewed Dr. Morales' compliance with the current Order. The Board expressed concern that the monitoring report indicated his medical records were incomplete.

The Board tabled the matter until the next scheduled monitoring report can be reviewed.

C. Lucinda Michel, DO Case No. DO-12-0102A License No. 4314

Dr. Michel was present and answered the Board's questions. The Deputy Director reported Dr. Michel was in compliance with the Consent Agreement currently in place.

MOTION: Mr. Landau moved to amend paragraph 1 of the existing Consent Agreement to increase Dr. Michel's hours of practice to no more than 32 hours per week. Dr. Ward seconded.

VOICE VOTE: The motion carried unanimously.

8. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. § 32-1822; PERMITS PURSUANT TO A.R.S. § 32-1829; AND RENEWALS OF LICENSES PURSUANT TO A.R.S. § 32-1825 (C-D) AND A.A.C. R4-22-207.

A. John W. Fitzharris, DO Case No. DO-13-0224A Application No. 006294

Dr. Fitzharris was present. The Executive Director reviewed the applicant's qualifications. Dr. Fitzharris answered the Board's questions.

MOTION: Dr. Steingard moved to grant Dr. Fitzharris an unrestricted license. Dr. Reiss seconded.

VOICE VOTE: The motion carried unanimously.

B. Kevin Dolehide, DO Case No. DO-13-0223A Application No. 006281

Dr. Dolehide was present. The Executive Director reviewed the applicant's qualifications. Dr. Dolehide answered the Board's questions.

MOTION: Dr. Steingard moved to grant Dr. Dolehide an unrestricted license. Dr. Sabeeh seconded.

VOICE VOTE: The motion carried unanimously.

C. Lance Ashworth, DO

Case No. DO-14-0017A

Application No. 006275

Dr. Ashworth was present with attorney Stephen Myers. The Executive Director reviewed the applicant's qualifications. Dr. Ashworth answered the Board's questions.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Ward seconded. The Board entered Executive Session at 4:54 p.m. and returned to Open Session at 5:00 p.m.

The Board discussed the applicant's qualifications.

MOTION: Mr. Fiegen moved to grant Dr. Ashworth an unrestricted license. Mr. Landau seconded.

ROLL CALL VOTE: The motion carried 4-3.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	4	X		X		X		X
NO	3		X		X		X	
ABSTAIN/RECUSE	0							
ABSENT	0							

D. Stuart Chesky, DO

Case No. DO-14-0037A

Application No. 006290

Dr. Chesky was present. The Executive Director reviewed the applicant's qualifications. Dr. Chesky addressed the Board, reiterating the information he provided in his application in that he practices administrative medicine and was seeking licensure in Arizona in order to practice administrative medicine only. Dr. Chesky answered the Board's questions.

Mr. Landau moved to enter Executive Session to review records and testimony regarding records which are confidential by statute. Dr. Sabeeh seconded. The Board entered Executive Session with Dr. Chesky at 11:04 a.m. and returned to Open Session at 11:11 a.m.

MOTION: Dr. Sabeeh moved to grant Dr. Chesky a limited license to practice administrative medicine which includes utilization review, administrative review and case review. Dr. Reiss seconded.

VOICE VOTE: The motion passed unanimously.

E. Valerie S. Gilreath, DO

Case No. DO-14-0026A

Application No. 006322

Dr. Gilreath was present. The Executive Director reviewed the applicant's qualifications. Dr. Gilreath answered the Board's questions.

MOTION: Dr. Reiss moved to grant Dr. Gilreath an unrestricted license. Dr. Sabeeh seconded.

ROLL CALL VOTE: The motion carried 6-1.

	Vote	Dr. Steingard	Dr. Cunningham	Mr. Fiegen	Mr. Landau	Dr. Reiss	Dr. Sabeeh	Dr. Ward
YES	6	X	X		X	X	X	X
NO	1			X				
ABSTAIN/RECUSE	0							
ABSENT	0							

F. Leon Malachinski, DO Case No. DO-14-0047A Application No. 006343

Dr. Malachinski was present. The Executive Director reviewed the applicant's qualifications. Dr. Malachinski answered the Board's questions.

MOTION: Mr. Landau moved to grant Dr. Malachinski a license. Dr. Cunningham seconded.

VOICE VOTE: The motion carried unanimously.

9. REPORTS FROM EXECUTIVE DIRECTOR, BOARD MEMBERS, and ASST ATTORNEY GENERAL

- A. Report on ED Dismissed Complaints
- B. President & Board Member reports
- C. Executive Director Report
 - 1. Budget
- D. Board may review, discuss and take action on request to move to retired status:
 - 1. Robert Fillion, DO
 - 2. Joseph Gibbons, DO

The Executive Director reviewed Dr. Fillion's and Dr. Gibbons' requests for retired status.

MOTION: Dr. Sabeeh moved to grant both requests for a Retired license status. Dr. Cunningham seconded.

VOICE VOTE: The motion carried unanimously.

- E. Board may review, discuss and take action relating to Shawn Platt, DO, Case No. DO-11-0165, to consider terms and scope of a possible consent agreement.

The Board entered into Executive Session for legal advice at 6:07 p.m. and returned to Open Session at 6:15 p.m.

- F. Board may review, discuss and take action on acceptance of grant from FSMB for Extended Release and Long Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy.

The Board tabled this discussion until after the FSMB meeting.

G. Board may review, discuss and take action on House of Delegate information for FSMB meeting.

No action taken.

10. ADJOURNMENT

The meeting adjourned at 6:25 p.m.

DRAFT